

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 03-10392-RCL
)
 MATTHEW VICKERS)

DEFENDANT'S UNOPPOSED REQUEST THAT A PRESENTENCE REPORT BE
PREPARED IN ADVANCE OF ANTICIPATED GUILTY PLEA

Defendant, Matthew Vickers, hereby requests that the Court order that a Presentence Report be prepared in this case before the defendant's expected guilty plea. As reasons therefore, defendant states the following:

1. The instant indictment is one of two now pending in United States District Court for the District of Massachusetts. The companion case, United States v. Matthew Vickers, No. 04-10027-PBS, alleges possession of more than five grams of cocaine base.
2. Judge Saris, at defendant's request and with the assent of the government, has ordered the Probation Department to prepare a pre-plea presentence report in the companion matter. The Probation Department has begun its investigation.
3. Defendant has indicated to counsel his amenability to a plea of guilty in both matters. The parties have begun negotiation of a possible plea agreement that would resolve both of the pending indictments.
4. Determination of defendant's sentencing exposure in these cases, both should he plead guilty or go to trial, is unusually complex. This is so because: (1) resolution involves two pending but nominally unrelated federal court cases; (2) the Judge Saris indictment involves sentencing calculations involving both statutory mandatory minimums and sentencing guidelines decisions; and (3) the instant matter involves a calculation referring to the Judge Saris. The Supreme Court's decision in Blakely v. Washington may further cloud some of the sentencing issues.

5. Counsel for defendant has provided defendant a written opinion of the various sentencing permutations, likely outcomes, and defendant's options. That opinion, however, runs to several pages and is factually dense. Defendant has expressed unease with some of the representations as to outcomes outlined by counsel.
6. A pre-plea presentence investigation and report will provide a level of certainty upon which the parties can base negotiations, draft an agreement, and resolve both the instant matter and the companion matter.
7. Moreover, should the Court grant this Motion, the Supreme Court will likely have issued its opinions in United States v. Booker and United States v. Fanfan. Clarification by the Supreme Court will greatly facilitate the mechanics the Rule 11 colloquy as well as the sentencing hearing itself.
8. Finally, the Probation Department has indicated that preparation of the two reports, one for this case and one Judge Saris's case, will be easier logistically if they are prepared contemporaneously.
9. The government does not oppose this motion.
10. The parties agree that, under prior orders of the Chief Magistrate, the period of time concluding on November 4, 2004 is excludable under the Speedy Trial Act. The parties further agree that the entire period of time commencing on November 4, 2004 and concluding on the date of the defendant's guilty plea subsequent to the pretrial investigation and report is excludable under the Speedy Trial Act.

Wherefore, defendant respectfully requests this Court continue trial in this matter and order the probation department to prepare a Presentence Report in advance of the defendant's expected plea of guilty.

MATTHEW VICKERS
By his attorney,

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